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DEPARTMENT OF THE NAVY

Office of the Secretary

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SECNAVINST 5300.28A

OP-15

17 January 1984

SECNAV INSTRUCTION 5300.28A

From: Secretary of the Navy

To: All Ships and Stations

Subj: Alcohol and drug abuse prevention and control

Ref: (a) PL 92-255 (86 Stat 66)
(b) PL 91-616 (84 Stat 1848)
(c) PL 92-129, Title V (85 Stat 361)

- A) (d) FPM 752 and CPI 752
(e) FPM 792, FPM Supp 792-2, and CPI 792
(f) DODDIR 1010.4 of 25 Aug 80 (NOTAL)
(g) DODINST 1010.5 of 5 Dec 80 (NOTAL)
A) (h) DODINST 1010.6 of 12 Aug 81 (NOTAL)
A) (i) DODINST 1010.1 of 16 Mar 83 (NOTAL)
(j) PL 91-513, Title II
(k) BUPERSINST 1620.4B/MCO 1620.2B
A) (l) SECNAVINST 1910.4A (NOTAL)
A) (m) SECNAVINST 1920.6A
A) (n) OPNAVINST 11200.5B/MCO 5110.1B

- Encl: (1) Drug abuse paraphernalia
(2) Preservice and in-service military drug and alcohol abuse
R) (3) Detection and deterrence of military drug and alcohol abuse
A) (4) Drug and alcohol abuse by civilian employees

1. **Purpose.** To promulgate the policies and regulations of the Department of the Navy (DON) concerning alcohol and drug abuse within DON, and to establish responsibility for execution of these policies in accordance with standards and procedures contained in references (a) through (n).

2. **Cancellation.** SECNAV Instruction 5300.28, ALNAV 073-82, NAVOP 172-81, ALMAR 246-81.

- R) 3. **Applicability.** The provisions of this instruction apply to all Navy and Marine Corps members, active and reserve, and to all civilian employees of DON, including nonappropriated fund employees and contract employees (including persons under individual contract), and, to the extent feasible, to family members of active-duty military personnel and civilian and nonappropriated fund employees.

4. **Definitions.** The following definitions are for operational use within the alcohol and drug abuse programs of DON. They do not change definitions in statutory provisions, regulations or directives that are concerned with

personnel administration, medical care, or with determination of misconduct and criminal or civil responsibilities for persons' acts or omissions.

a. **Alcohol and Drug Abuse.** The use of alcohol and/or other drugs to an extent that it has an adverse effect on performance, conduct, discipline, or mission effectiveness, and/or the user's health, behavior, family, or community. The wrongful or illegal possession or use of drugs in any amount also constitutes drug abuse.

b. **Drug Trafficking.** The wrongful distribution (includes sale or transfer) of a controlled substance, and/or the wrongful possession or introduction into a military unit, base, station, ship, or aircraft of a controlled substance with the intent to distribute. (R)

c. **Controlled Substances.** A drug or other substance included in Schedule I, II, III, IV, or V established by Section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat 1236) as updated and republished under the provisions of that act in the Code of Federal Regulations.

d. **Alcohol and Drug Dependence.** The reliance on alcohol and/or other drugs following use on a periodic or continuing basis. Dependence may be psychological or physical, or both (e.g., alcoholism is psychological and/or physical dependence on alcohol). An individual is said to be dependent when his/her current usage impairs his/her performance. Dependency must be determined by a physician or medical officer. (R)

(1) **Psychological Dependence.** The craving for the mental or emotional effects of alcohol or other drugs that manifests itself in repeated use and leads to a state of impaired capability to perform normal functions.

(2) **Physical Dependence.** An alteration to the body or state of adaptation to alcohol or other drugs after repeated use that results in withdrawal symptoms when the drug is discontinued abruptly and/or the development of tolerance.

e. **Marijuana and Cannabis.** For purposes of this instruction the terms marijuana and cannabis are used interchangeably. Cannabis is the botanical name for a genus of plants commonly referred to as marijuana.

f. **Drug Abuse Paraphernalia.** All equipment, products, and materials of any kind that are used, intended for use,

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or designed for use in injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana, narcotic substances, or other controlled substances in violation of law. Enclosure (1) includes a listing of common forms of property that can fall within the definition of drug abuse paraphernalia.

5. Policy. Alcohol and drug abuse by members of the Armed Forces or civilian employees of the military departments is incompatible with the maintenance of high standards of performance, military discipline, readiness and reliable mission accomplishment. Therefore, it is the goal of DON to be free of the effects of alcohol and drug abuse; of the illegal possession of and/or trafficking in drugs by military and civilian personnel of DON; and of the possession, use, distribution, or promotion of drugs or drug paraphernalia. To achieve these goals it is DON policy that:

R) **a.** Persons who have any record of drug trafficking offenses or whose patterns of drug involvement indicate dependency shall not be inducted in the Navy or Marine Corps except as provided in enclosure (2).

b. Persons who are alcohol or drug dependent shall not be hired as civilian employees if their dependency reasonably would appear to adversely affect job performance or the efficiency of the service.

c. Navy and Marine Corps members at all times, and DON civilian employees while on the job and/or on board a federal facility, shall not possess, distribute, or use drugs or drug abuse paraphernalia. Violators shall be processed in accordance with paragraph 6 and enclosures (2), (3) and (4).

d. Possession, sale or advertising of drug abuse paraphernalia by Navy and Marine Corps resale outlets is prohibited. The prohibition applies to military exchanges, open messes, and commissaries, and to private organizations and concessions located on DON installations.

R) **e.** Military members who are guilty of trafficking in drugs or drug paraphernalia, those who are drug dependent and require long term rehabilitation, and those alcohol and drug abusers who are determined to have no potential for further useful, abuse-free service shall be disciplined, as appropriate, and processed for separation in accordance with enclosure (3) and references (l) and (m). Members who are physically drug or alcohol dependent and in need of medical detoxification shall be admitted to an appropriate medical facility for detoxification prior to separation.

f. Alcohol and drug abusers who are determined to have potential for future useful service shall be disciplined, as appropriate, and provided counseling and/or treatment in order to rehabilitate and restore to full duty as many members as is feasible in accordance with enclosure (3). (R)

g. Civilian employees who commit drug related offenses shall be subject to corrective administrative and disciplinary measures in every case as prescribed in enclosure (4) and reference (d). (A)

h. Civilian employees evidencing alcohol and/or drug problems shall be offered counseling and referral to appropriate facilities in accordance with enclosure (4) and references (e) and (f). (R)

i. Family members who are dependents of alcohol or drug dependent military members, and, to the extent feasible, others in their household, and family members of alcohol or drug dependent civilian employees shall be counseled and encouraged to participate on a voluntary basis in the member's rehabilitation program.

j. Family members who are themselves alcohol or drug dependent shall be encouraged to enter treatment voluntarily for their own and the service member's or employee's benefit. Those eligible for treatment at Government expense shall be referred as appropriate to military facilities on a space available basis or to civilian facilities which participate in CHAMPUS or the civilian employee's federal health care benefit program, as applicable.

k. Strong preventive education and counseling programs shall be conducted to help prevent drug and alcohol abuse. (R)

6. Regulations Governing the Conduct of DON Military and Civilian Personnel. For purposes of this paragraph, the definitions of controlled substances and drug abuse paraphernalia in paragraph 4 of this instruction apply.

a. Drug Possession, Use, Introduction, Manufacture and Distribution. Article 1151.2, U.S. Navy Regulations, 1973, provides: "The wrongful possession, use, introduction, manufacture, distribution, and possession, manufacture, or introduction with intent to distribute, of a controlled substance by persons in the naval service are offenses under Article 134, Uniform Code of Military Justice. Except for authorized medicinal or other authorized purposes, the possession, use, introduction, sale or other transfer of marijuana, narcotics, or other controlled substance on board any ship, craft, or aircraft of the Department of the Navy or within any base, naval station, or other place (R)

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under the jurisdiction of the Department of the Navy by persons not subject to the Uniform Code of Military Justice is prohibited."

- R) **b. Drug Abuse Paraphernalia.** Except for authorized medicinal purposes, the use for the purpose of injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana, narcotic substances, or other controlled substances, the possession with the intent to so use, or the distribution with the intent that it be so used, of drug abuse paraphernalia by persons in the naval service is prohibited. A violation of this prohibition by military personnel may result in punitive action under the Uniform Code of Military Justice.

c. Violations by Civilian Employees. The regulations prescribed in subparagraphs 6a and 6b of this instruction constitute a standard of conduct for civilian employees of DON and, as such, any violation provides the basis for corrective action, including both administrative and disciplinary action, to enforce the policies in paragraph 5 and enclosure (4) of this instruction. Conduct by civilian employees in violation of these regulations may in certain cases also be a violation of local laws and, as such, referral to civilian authorities may be considered appropriate.

- R) **7. Training and Education.** Continuing education and training programs shall be established in accordance with reference (g) and shall focus especially on the prevention of alcohol and drug abuse. These programs shall include, but not be limited to:

a. Training of appropriate military and civilian supervisors in recognition, deterrence, enforcement, discipline, intervention, and referral to treatment of alcohol and drug abusers.

b. Training of appropriate military and civilian program staff personnel in the counseling and rehabilitation of alcohol and drug abusers.

c. Education in alcohol and drug use and abuse of all military personnel and of all civilian employees, and on a voluntary basis, when feasible, of dependents of active-duty members and civilian employees.

d. Remedial/motivational education of alcohol and drug abusers with emphasis on behavior modification and motivation toward adoption and achievement of positive goals with the objective of satisfactory performance and conduct without further abuse of alcohol or drugs.

8. Standards of Practice

a. Programs and standards of practice established in execution of this policy for military personnel and their application to military dependents shall be in compliance with references (c), (f), (g), (h) and (i). (R)

b. Programs and standards of practice established in execution of this policy for civilian employees and their application to dependents of civilian employees shall be in compliance with references (a), (b), (e), (f), (g), (h) and (i). (R)

9. Staffing Considerations. In administering DON alcohol and drug abuse programs serving military and civilian personnel and families, special attention should be given to representation of women and specific minority groups among program administrators and counselors and those selected for special training.

10. Interagency Cooperation. Navy and Marine Corps alcohol and drug abuse program managers shall work in concert with national alcohol and drug abuse prevention programs, maintaining appropriate relationships with governmental and nongovernmental agencies.

11. Selection Board Guidance Concerning Rehabilitated Members. Guidance consistent with the policy in this instruction shall be provided to all officer and enlisted selection boards to assist them in determining proper action to be taken not only in cases where record entries indicate a need for remedial education or treatment, but also where members have demonstrated full recovery and restoration to productive service.

12. Action. The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) are responsible for the establishment and conduct of alcohol and drug abuse prevention programs consistent with this policy guidance, giving specific attention to the functional areas of detection and deterrence, treatment and rehabilitation, education and training, enforcement and discipline. (R)

a. These programs shall be designed to support functional areas of personnel management, recruiting, retention, and administrative separation.

b. Programs and standards of practice for dependent family members shall be consistent, to the extent permitted by law and within the limitations in this instruction, with those for the military and civilian components, and with accepted practice in the alcohol and drug abuse area.

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A) c. The CNO shall establish and operate drug testing laboratories in accordance with reference (i) to provide responsive urinalysis testing services to the Navy and Marine Corps.

d. The CNO and CMC shall provide alcohol and drug program management personnel to represent DON on the Department of Defense Alcohol and Drug Abuse Advisory Committee as required by reference (f), and on such other military and governmental committees and task groups as may be requested by the Office of the Secretary of Defense. Those representatives shall keep the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN-(M&RA)) continuously apprised of actions considered by such groups which would modify or impact upon the effectiveness of DON policies and programs under this instruction.

e. The CNO and CMC shall ensure that appropriate measures are taken to:

R) (1) Prevent trafficking in drug and drug paraphernalia by DOD and non-DOD personnel, on military ships, aircraft and installations,

(2) Provide for off-station enforcement, in compliance with reference (k), when the availability of drugs and drug abuse paraphernalia in the civilian community reveals a threat to the discipline, health, welfare or morale of members of the Armed Forces, and

A) (3) Provide guidance and assistance to commanding officers and activity heads to ensure effective execution of drug abuse control policies and programs.

R) f. The CNO and CMC shall assure maximum coordination and cooperation between Navy and Marine Corps programs for purposes of economy and departmental uniformity. As part of this cooperation the CNO will provide timely and responsive certified laboratory urinalysis services to the Marine Corps. The CMC will provide counselors

and administrative assistance to naval treatment centers in appropriate proportion to the numbers of Marine Corps personnel undergoing treatment.

g. The CNO and CMC shall establish procedures for identifying preservice drug abusers at the point of initial application and in recruit and major initial specialty training programs, accepting for service and continuing only those who are highly likely to meet acceptable standards of performance and conduct without further abuse as provided in enclosure (2). (R)

h. The CNO and CMC may request exceptions to these policies for medical, educational, operational or personnel management purposes when deemed essential, and propose changes when needed to meet basic policy objectives. (R)

i. The CNO and CMC shall supply necessary data to the Office of the Secretary of Defense as required with copies to ASN (M&RA). (R)

j. The CNO and CMC shall provide management assessments of programs execution to ASN (M&RA) by 15 December of each year. The assessments should provide their evaluation of the effectiveness of preventive education, detection, deterrence, disciplinary and separation actions, counselling and rehabilitation programs, waivers of preservice and in-service exclusionary provisions, levels of military and civilian drug abuse, trafficking, and alcohol abuse, and any other desired information relating to control of the abuse of drugs and alcohol. (R)

13. Report. Symbol OPNAV 5300-6 is assigned to the requirement contained in subparagraph 12j and is approved for 3 years from the date of this directive. (A)

JOHN LEHMAN
Secretary of the Navy

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DRUG ABUSE PARAPHERNALIA

1. The term "Drug Abuse Paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in injecting, ingesting, inhaling or otherwise introducing into the human body marijuana, a narcotic substance, or other controlled substance in violation of law. It includes but is not limited to:

a. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in injecting controlled substances into the human body, and metallic or other containers used for mixing or other preparation of heroin, morphine, or other narcotic substances prior to such an injection;

b. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(1) Chamber pipes, carburetor pipes, electric pipes, air-driven pipes, chillums, bongs, ice pipes or chillers, and other pipes, with or without screens, hashish heads, or punctured metal bowls, designed for the purpose of smoking marijuana or hashish;

(2) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(3) Cocaine spoons.

2. The words "equipment, products, and materials" should be interpreted according to their ordinary or dictionary meanings. To insure that innocently possessed objects are not classified as drug abuse paraphernalia, paragraph 6b of the basic instruction makes the criminal intent of the person in possession or control of an object a key element of the definition. Some evidentiary factors to consider in determining this criminal intent, and hence whether an object is drug abuse paraphernalia, are as follows:

a. Statements by the person in possession or by anyone in control of the object concerning its use;

b. The proximity of the object, in time and space, to the unlawful use, possession, or distribution of drugs;

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- c. The proximity of the object to controlled substances;
- d. The existence of any residue of controlled substances on the object;
- e. Instructions, oral or written, provided with the object concerning its use;
- f. Descriptive materials accompanying the object which explain or depict its use;
- g. The existence and scope of legitimate uses for the object in the community;
- h. Expert testimony concerning its use.

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Preservice and In-service Military Drug and Alcohol Abuse

1. Policy. It is Department of the Navy policy that no person (R) who is drug or alcohol dependent, who currently abuses drugs or alcohol, whose preservice abuse of drugs and/or alcohol indicates a proclivity to continue abuse in the service, or who has a record of any trafficking offenses, be permitted to enter or be retained in the naval service.

a. It is known that some people have clear potential for drug-free military service despite past drug and/or alcohol abuse. As such, preservice casual or experimental use, as long as such abuse is completely discontinued upon entry into the naval service, is not necessarily disqualifying. Therefore, persons who have abused drugs or alcohol prior to application for military service, but who are not drug or alcohol dependent, may be considered for entrance on a case-by-case basis, provided the overall record indicates the applicant is qualified in all other ways and likely to meet acceptable standards of performance and conduct without future abuse.

b. It is known that some members of the naval service have clear potential for future abuse-free service despite abuse while in service. Therefore, members who have abused drugs or alcohol may be considered on a case-by-case basis for rehabilitation and retention.

2. Guidelines for Acceptance. The CNO and CMC shall establish (A) recruiting procedures that will screen out individuals whose past drug and/or alcohol abuse was of such a kind, intensity, frequency or duration as to render them unsuitable for enlistment, appointment, or commissioning. Guidelines for acceptance into the naval service are as follows:

a. Except as provided for in paragraph 2b, applicants are not eligible for enlistment, appointment, or commissioning if they have:

(1) Ever been convicted of or the subject of action tantamount to conviction of a drug abuse offense;

(2) Ever been psychologically or physically dependent upon any drug or alcohol;

(3) Ever been a trafficker of illegal drugs.

b. Acceptance may be authorized for applicants in categories (R) a(1) and a(2) on a case-by-case basis when the preservice abuse or dependency was resolved in such a way that there is little likelihood that such behavior will recur. CNO and CMC shall establish procedures for the granting of acceptance to preservice drug and alcohol abusers considered to be good risk applicants.

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- A) c. Applicants for service as a commissioned officer and for Submarine, Nuclear Power and Personnel Reliability Programs, Medical and Dental ratings and other programs requiring an exceptional degree of reliability, dependability or trust and confidence, as designated by the CNO or CMC, may be considered for acceptance under additional special entry criteria established by the CNO and CMC for each program to assure a very low risk of drug incidents in such programs.

- A) 3. Post Enlistment Disclosure of Preservice Drug or Alcohol Abuse. Military personnel who as applicants disclaim preservice drug or alcohol abuse and subsequently admit to preservice abuse which could have disqualified them from entry into the service will be evaluated on a case-by-case basis at the time of such admission. Those who would have met the acceptance criteria specified above at time of entry and who have the potential for future useful abuse-free service may be retained under criteria established by the CNO and CMC. All others should be processed for separation under references (l) and (m).

- R) 4. Preservice Drug Related Offenses. Individuals who have been convicted of a drug abuse offense may also be considered within the guidelines for acceptance provided for in paragraph 2a. For purposes of this enclosure, the phrase "convicted of a drug abuse offense" does not include civil arrests or judicial action involving drug abuse when the charges were dropped or the individual was adjudged not guilty, unless such judgment or dismissal was the result of an agreement or deferral of prosecution conditioned on entry into the naval service. Persons with multiple drug related convictions should normally be considered ineligible for naval service.

- R) 5. Preservice Alcohol Related Offenses. Individuals who have been convicted of an alcohol related offense may also be considered within the guidelines for acceptance provided for in paragraph 2a. In this regard, persons with multiple alcohol-related civil convictions (DWIs, etc.) should normally be considered ineligible for naval service.

- A) 6. In-Service Drug Related Offenses

a. Drug trafficking is so detrimental to military readiness, reliable mission accomplishment and the health and welfare of naval personnel that disciplinary action, as appropriate, and processing for separation under references (l) and (m) is mandatory.

b. Drug abuse by commissioned officers, warrant officers, and senior petty officers and non-commissioned officers (E-7 through E-9) is inconsistent with their exemplary roles as leaders and voids their potential for useful service. They will be disciplined, as appropriate, and processed for separation in accordance with references (l) and (m).

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c. Junior enlisted personnel committing offenses involving use or possession of controlled substances shall also be disciplined, as appropriate, and processed for separation. The CNC and CMC may authorize case-by-case waivers of this policy for members who are found to have potential for future useful drug-free service. A regimen of counselling, treatment and/or rehabilitation must be successfully completed. Authority to waive this policy after a third offense will be exercised by a flag or general officer at the service headquarters level. (R)

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DETECTION AND DETERRENCE OF MILITARY DRUG AND ALCOHOL ABUSE

1. Policy. Alcohol abuse and drug abuse result in loss of resources, interferes with reliable mission accomplishment and can cost the lives of abusers and of other military and civilian personnel. Effective detection and deterrence programs are essential to prevent and eliminate drug and alcohol abuse in the naval service and to restore to full duty abusers who have potential for continued, useful, abuse-free service. To be effective, detection and deterrence programs must be supported by a rehabilitation program for those who want help, without risk of disciplinary action. (R)

a. Alcohol Abuse and Alcoholism. Alcohol abuse and the disease of alcoholism are preventable and treatable. Prevention of alcoholism is the responsibility of the individual. Enlightened attitudes and techniques by command, supervisory, and health service personnel can help individuals recognize and accept their personal responsibility for its prevention. Less seriously afflicted individuals are also responsible for obtaining treatment. However, the denial by the alcoholic of his or her alcoholism is a common symptom of the illness, and the actively drinking alcoholic is least qualified to diagnose his or her illness and prescribe proper treatment. Restoration of those with potential for further useful abuse-free service is cost effective. Accordingly, it is the policy of DON to identify all alcohol dependent military personnel and treat those members showing potential for useful service who require rehabilitation whether or not they first seek treatment, and to separate those who cannot perform free of alcohol abuse after rehabilitation. (R)

b. Drug Abuse and Drug Dependence. All effective methods shall be employed to identify incidents of drug abuse and to identify and treat military members requiring rehabilitation whether or not they first seek treatment. Effective detection and deterrence, urinalysis testing, and voluntary self-referral for rehabilitation are the primary methods of drug abuse identification. Short term rehabilitation for restoration and retention of the young abuser evidencing potential for further useful drug-free service is also cost effective and is a primary goal of the drug abuse control program. (R)

c. Referral of Dependent Separates. Drug or alcohol dependent members who are to be separated will be given appropriate care and referred to a VA facility or other civilian rehabilitation facility in accordance with reference (h).

2. Detection and Deterrence. To ensure that programs to control alcohol and drug abuse among naval personnel are effective and to provide maximum contribution to good order and discipline, individual performance and unit operational readiness, comprehensive actions to detect and deter abuse are necessary. Commanders, commanding officers, and officers-in-charge shall make fullest use of administrative and disciplinary procedures including, but not limited to, the following: (R)

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- a. Employ to the extent feasible trained investigative and enforcement personnel.
- b. Request drug detector dog team sweeps on frequent but unpredictable schedules.
- R) c. Use urinalysis, including portable urinalysis, and other identification equipment and methods to support inspection and readiness programs.
- d. Schedule frequent inspections and assistance visits.
- e. Conduct random inspection of vehicles and personal possessions on entry or exit of vessels, military installations or other property under military control.
- A) f. In every case, without exception, take prompt corrective disciplinary and/or administrative actions.
- R) g. When warranted, initiate positive restorative actions such as motivational education coupled with a rigorous, productive work routine and command counseling, or rehabilitation at a Counseling and Assistance Center or residential rehabilitation facility, as appropriate.
- R) h. Monitor the aftercare regimen of rehabilitees after treatment and promptly address any recidivism.
- R) i. Provide prompt and accurate drug and alcohol incident reports as prescribed by CNO and CMC to help identify area "hot spots" and abuse trends, and apply or realign resources to meet the threat. Reporting of onboard drug and alcohol abuse problems will be treated like other reports of serious manpower or equipment casualties. The mere fact of reporting incidents will not reflect adversely upon the reporting officer's professional abilities.
- R) j. Develop and maintain the disciplined life anticipated by virtually all members upon entry into naval service. Reinforce historic Navy and Marine Corps customs and traditions coupled with strong emphasis on pride and professionalism to establish a climate where drug and alcohol abuse is not tolerated by the mature officers and enlisted members, is rejected as a matter of choice by the younger leaders, and is generally discouraged through positive peer pressure.
- R) 3. A Comprehensive Urinalysis Program. Detection and deterrence measures shall be supported with a comprehensive urinalysis program to disclose drug abuse among military personnel. Mandatory urinalysis testing of all officers and enlisted members for controlled substances is authorized under the following circumstances:

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a. Inspection - periodic inspections, including unit sweep and random sampling health and welfare inspections, under Military Rule of Evidence 313. (R)

b. Search or seizure - a search or seizure under Military Rules of Evidence 311 through 317.

c. Medical examination - any examination ordered by medical personnel for a valid medical purpose under Military Rule of Evidence 312(f), including emergency medical treatment, periodic physical examinations, and such other medical examinations as are necessary for diagnostic or treatment purposes, but not including fitness for duty examinations.

d. Fitness for duty - a command-directed examination or referral of a specified member for a valid medical purpose, under Military Rule of Evidence 312(f), when there is a reasonable suspicion of drug abuse, an examination of a specified member incident to a mishap or safety investigation, or an examination of a specified member in conjunction with a member's participation in a drug treatment or rehabilitation program. This includes a command-directed examination of a specified individual to determine a member's competency for duty or to ascertain whether a member requires counseling, treatment, or rehabilitation for drug abuse.

4. Limitation on Use of Urinalysis Test Results. Results obtained from urinalysis testing under paragraph 3d may not be used against the member in actions under the Uniform Code of Military Justice or as the basis for the characterization of a discharge in separation proceedings, except when used for impeachment or rebuttal purposes in any proceeding in which the evidence of drug abuse (or lack thereof) has been first introduced by the member. Subject to the above limitations, the results of mandatory urinalysis may be used to refer a military member to a treatment or rehabilitation program, to take appropriate disciplinary action, and to establish the basis for separation and characterization of discharge in separation proceedings in accordance with applicable laws and regulations. The results of mandatory urinalysis may be used in other administrative determinations except as otherwise limited in this instruction or under rules issued by the Secretary of the Navy. (R)

5. Voluntary Self-Referral for Rehabilitation for Drug Abuse. To support detection and deterrence program goals, a means is required to encourage drug abusers to seek rehabilitation voluntarily. For this purpose a voluntary self-referral rehabilitation procedure which allows the member to seek help without risk of disciplinary action is established. The program will be operated under the following guidelines: (R)

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a. Procedures. Any active duty member with a drug abuse problem may obtain treatment or rehabilitation, as required, by means of self-referral. Members identified as drug abusers through self-referral will be evaluated and treated or entered into a rehabilitation program, if necessary, on the same basis as members whose drug abuse is disclosed by urinalysis testing or other means. Military members who seek treatment or rehabilitation for drug abuse may initiate the evaluation and treatment process by voluntarily disclosing the nature and extent of their drug abuse to qualified drug screening personnel. Immediately following disclosure, the screening activity shall notify the member's commanding officer of the member's self-referral and recommend a rehabilitative regimen.

b. Disciplinary and Administrative Action Not Precluded. Voluntary self-referral for counseling, treatment, or rehabilitation does not exempt a member from disciplinary action or adverse administrative action. Notwithstanding a member's self-referral, appropriate disciplinary or administrative action, including separation with an other than Honorable discharge, may be taken against the member for drug abuse occurring either before or after self-referral, subject to the limitations contained in paragraphs 6 and 7 on the use of disclosed information.

6. Confidentiality of Records. Records of the identity, diagnosis, prognosis, or treatment of any member who has sought or received counseling, treatment, or rehabilitation in any DON drug or alcohol abuse counseling, treatment, or rehabilitation program which are maintained in connection with such program may not be introduced against the member in a court-martial except as authorized by a court order issued under the standards set forth in 21 U.S.C. 1175 or 42 U.S.C. 4582, or for rebuttal or impeachment purposes where evidence of drug or alcohol abuse (or lack thereof) has first been introduced by the member.

7. Limitations on Use of Information. Disclosures made by a member to drug or alcohol abuse screening, counseling, treatment or rehabilitation personnel relating to the member's past drug or alcohol abuse, or possession incident to such use, including disclosures made at Alcoholics Anonymous and Narcotics Anonymous meetings and while attending Navy Alcohol Safety Action Program/Navy Drug Safety Action Program classes may not be used against the member in any disciplinary action under the UCMJ or as the basis for characterizing a discharge, provided that the information is disclosed by the member for the express purpose of seeking or obtaining treatment or rehabilitation. This does not

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preclude the use of disclosed information to establish the basis for separation in a separation proceeding or to take other administrative action, nor the introduction of evidence for impeachment or rebuttal purposes in any proceeding in which drug abuse (or lack thereof) has first been introduced by the member. The use of information disclosed by a member to persons other than alcohol or drug abuse program personnel is not limited under this paragraph. Similarly, the use of information disclosed in response to official questioning in connection with any investigation or disciplinary proceeding shall not be considered information disclosed for the purpose of seeking or obtaining treatment or rehabilitation and is not limited under this paragraph.

DRUG ABUSE BY CIVILIAN EMPLOYEES

(A)

1. Policy

a. It is the policy of the Department of the Navy to detect and deter drug offenses by civilian employees, on or off-duty, and by contract employees on military units and installations, in order to eliminate the adverse effects of drug abuse by civilian employees on the reliability and readiness of naval personnel and of naval units and thereby on the efficiency of the service. This will be achieved by:

(1) Not hiring persons who are drug dependent if their dependency reasonably would appear to adversely affect job performance or efficiency of the service.

(2) Using all available legal measures to identify drug abuse.

(3) In every case, without exception, taking prompt corrective action in accordance with this instruction and references (d) and (e) which recognizes the serious adverse effects on military personnel, readiness, and mission accomplishment.

b. The purpose of these policies and procedures is to focus enforcement and personnel resources and the attention of managers and supervisors on those aspects of the drug and alcohol abuse problem which affect military personnel, readiness and mission performance, and to ensure in every instance that strong corrective measures are taken to promote the efficiency of the service.

2. Applicability. The civilian drug abuse control program applies to civilian employees, including non-appropriated fund employees, and contract employees on military units and installations including all naval and Military Sealift Command vessels, aircraft and other property under military control.

3. The Relationship Between Civilian Drug Abuse and the Naval Mission. As a military department, the primary mission of the Department of the Navy is to protect the United States by the effective prosecution of war at sea and to maintain freedom of the seas. The functions of all personnel, military and civilian, must support this purpose. Drug offenses, drug abuse and drug trafficking are against the law and violate Navy regulations. The following describes the direct connection, or nexus, between

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civilian drug offenses and mission accomplishment. Evidence of connection, or nexus, should be presented in adverse action cases, rather than relying on this description alone.

a. Drug offenses by military personnel are a serious breach of military discipline which undermines the very fiber of combat readiness. They have a detrimental impact on individual performance, and thus on mission capability and accomplishment. Drug offenses by civilian employees have a detrimental impact on individual performance, and thus undermine the function of the civilian work force in its support of the operating forces.

b. Medical evidence has established that the illegal use of drugs, including marijuana, adversely affects the physical and psychological health of the user. It therefore renders the services of civilian employee users unreliable. Habitual use ultimately results in tragedy to the user and , all too frequently, to others.

c. Personnel surveys by DoD and the Navy, and DON military counseling, rehabilitation and disciplinary statistics have documented that there is widespread drug abuse among Navy and Marine Corps personnel. This is attributable not only to trafficking in illegal drugs and drug paraphernalia in civilian society and within the military force but also, in part, to trafficking by civilian and contract employees. The illegal possession and use of drugs and paraphernalia by civilian and contract employees in the military setting also contributes directly to the widespread military drug abuse problem and undermines command efforts to eliminate drug abuse among military personnel.

d. The deleterious effects of drug abuse are even more acute where civilian or contract employees are engaged in performance of duties in critical functions, or in duties that affect the safety of others. Examples of such duties include duties aboard ships and aircraft; duties that involve the handling of weapons, or entry into nuclear spaces; fire, casualty and security control; air and sea traffic control; the operation of vehicles or other machinery; and any other similar functions that involve the operation, maintenance or repair of military systems or equipment.

e. Illegal drug-related activity in connection with such critical functions constitutes an unacceptable risk of damage to government property, a significant impairment of the ability safely and reliably to conduct day-to-day operations, and a danger to the health and safety of the individual and others.

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f. Illegal drug-related activity in connection with management of programs and the supervision of others, particularly when critical functions are included, also constitutes an unacceptable risk to the military mission and to the safety of others. Thus the higher the level of the employee the more reprehensible are drug-related offenses.

4. Detection and Deterrence. Effective detection and deterrence measures, consistent with the conditions of civilian employment, are essential to promote the efficiency of the service by preventing the impact of civilian drug abuse on naval personnel and naval missions. The following administrative and disciplinary measures applicable to civilian personnel shall be taken to identify drug offenses on military installations and other property under military control, and to prevent introduction of illegal drugs and paraphernalia into those areas:

a. Routine inspections of government spaces, including use of drug detection dog teams as available.

b. Random inspections of vehicles on entry or exit, with drug detection dog teams as available, to eliminate them as a safe haven for storage of or trafficking in illegal drugs and paraphernalia.

c. Random inspection of personal possessions on entry or exit.

d. Where there is probable cause to believe a civilian employee on duty has illegal drugs or paraphernalia in his or her possession, an authorized search of his or her person or effects.

e. Where there is reason to suspect that a civilian employee on duty is under the influence of illegal drugs, the employee shall be immediately relieved from duty and referred to appropriate medical personnel for evaluation for competency for duty. The employee must be offered the Civilian Employee Assistance Program (CEAP) established by reference (e). Civilian employees found medically unfit to perform critical functions safely and reliably shall be relieved from their duties until they are found to be fit. A civilian or contract employee under the influence of illegal drugs while on any unit or installation shall be removed from the property as expeditiously as circumstances permit.

f. Where there is reason to suspect that a civilian or contract employee has been engaged in the use, possession or

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trafficking of drugs, that employee may be restricted or detained for the period necessary until he can be removed from the installation, or can be turned over to local law enforcement authorities having jurisdiction, when appropriate. In any event, a civilian or contract employee suspected of committing a drug offense on a military installation should be removed therefrom at the earliest opportunity.

g. The assistance of the Naval Investigative Service (NIS), and other investigative agencies on or off base, should be used to the extent necessary to identify traffickers and distributors of illegal drugs to military or civilian personnel. The use of informants and undercover agents to meet this objective is encouraged. Working agreements and other cooperative jurisdictional arrangements with local authorities in surrounding civilian communities should be entered into, as necessary or appropriate, to ensure effective coverage of suspected individuals and establishments. Local communities should be encouraged to strictly enforce state and local laws concerning drug abuse to aid installation efforts.

h. Information concerning and evidence of off-duty drug abuse by civilian or contract employees which may become available should be released to appropriate federal, state or local civil authorities, in accordance with regulations governing disclosure and use of such information, for investigation and prosecution.

i. Naval activities outside the jurisdiction of the United States must predetermine and comply with limitations in the applicable Status of Forces Agreements and base labor agreements on the actions they may take with respect to foreign nationals.

j. Probable cause is described in Military Rule of Evidence 315, Chapter 27, Manual for Courts-Martial. Sworn statements, or written affidavits, are desirable and should be obtained when practicable.

5. Administrative and Disciplinary Action. Effective correction and deterrence of drug offenses by civilian employees requires positive administrative and/or disciplinary action appropriate to the serious nature of the offense. These actions are to include:

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a. Trafficking in illegal drugs and drug paraphernalia by civilian employees while on a military installation or other property under military control, and illegal drug use by a civilian employee while in a military vessel (including MSC vessels), or in a military aircraft, because of the unacceptable risk to military personnel and mission accomplishment, normally requires that the employee be terminated, any security clearance withdrawn, and referral for prosecution by appropriate law enforcement authorities. While action less severe than removal may be warranted in a few rare cases, a repeated act of sale or transfer of even minor amounts of illegal drugs confirms the unreliability of an employee and removal is justified and should be imposed.

b. Illegal drug use by a civilian employee while on a military installation or other property under military control requires prompt disciplinary action. Where the duties assigned are critical or could endanger the health or safety of others, risk damage to government property, or significantly impair day-to-day operations, i.e., critical duties, removal or suspension is normally appropriate, and the employee must be detailed to other, non-critical duties, including to lower graded duties if necessary, or placed in an administrative leave status pending completion of disciplinary action in accordance with reference (d). Upon second offenses, employees in critical positions and who, because of mitigating factors, are not removed from federal employment shall be reassigned to non-critical positions, including detail to lower graded duties if a lateral non-critical assignment is not immediately available, unless operational necessity dictates otherwise.

c. Possession of illegal drugs or paraphernalia on military installations or other property under military control shall normally be disciplined by suspension, or, in the case of possession on a vessel or aircraft, by removal. Mitigating factors may make a lesser action appropriate, but repeated offenses must be more severely dealt with, and if an employee is not terminated, other disciplinary action, including reduction in grade, is appropriate. In any event a reassignment to non-critical duties, including detail to lower graded duties if a

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lateral non-critical assignment is not immediately available, is required unless operational necessity dictates otherwise.

d. Prosecution by civilian authorities for trafficking or abuse is sufficient evidence of unreliability to require detail to non-sensitive duties, including lower graded duties if necessary, and suspension of security clearances. Civil conviction for a drug offense requires permanent reassignment from sensitive duties, including appropriate adjustment of security clearance. Removal action is normally required upon civilian conviction for trafficking, and for other drug offenses depending on the circumstances. The failure of civil authorities to convict or to prosecute off-base drug offenses does not preclude corrective administrative or disciplinary action where other evidence is available to establish employee misconduct.

e. When illegal drugs are discovered in the course of an inspection or search of a vehicle operated by a civilian or contract employee, the employee and vehicle shall be detained for the reasonable period of time necessary to turn the employee and the vehicle over to appropriate civil law enforcement officials. Action shall be taken, in accordance with references (k) and (n) to suspend, revoke or deny installation driving privileges.

6. Civilian Employee Assistance Program (CEAP). A civilian employee suspected of use of illegal drugs, or who admits to such use, is required by reference (e) to be offered counseling and/or treatment through CEAP. An employee who, in such cases, establishes in accordance with reference (d) that impaired performance, reduced dependability, or discreditable behavior is to drug dependence must be offered the opportunity for rehabilitation, and reasonable job accommodation to participate in such rehabilitation before adverse actions are initiated. However, job accommodation is not required when it would impose an undue hardship on the activity, such as continuing an unreliable employee in critical functions or duties which could affect the health or welfare of others, because of the overriding considerations in paragraph 3. Refusal to accept or undertake a rehabilitation offer satisfies the requirement for reasonable job accommodation and permits commencement of disciplinary action. When an employee has not established the existence of a handicapping condition, as required by reference (d), he or she is not entitled to reasonable job accommodation and entrance into CEAP is not a bar to disciplinary action.

Enclosure (4)